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January 28, 2015

Hon. Valerie E. Caproni
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Kelley Sullivan v. P.D. O'Hurley's Restaurant Group, et al.
Case No.: 14-cv-4046

Dear Judge Caproni,

We represent Plaintiff, Kelley Sullivan, in the above-referenced action. We respectfully write Your Honor pursuant to Your January 23, 2015 Order explaining why this matter should not be dismissed against the Defendants pursuant to F.R.C.P. 41(b), and to respectfully request that the February 13, 2015, Show Cause Hearing be cancelled for the reasons set forth below..

First, we apologize for what appears to be a delay in prosecuting this matter. However, it took us considerable time to find Defendant Boskou (as we have represented multiple times that we believed he was willfully evading service.) Nevertheless, Defendant Boskou was finally located and timely served on November 3, 2014. (see attached affidavit of service.) We then served Defendant Boskou with a Good Faith Notice of Default on January 7, 2015. (see attached good faith letter.) The letter requested that he interpose an Answer by January 16, 2015, which he did not.

Second, while we had already sought and received the Clerk's Certificate of Default as against Defendants Portmarnock Restaurant Corp and Hurley, and were finalizing a Motion for Default against those 2 Defendants, we finally located Defendant Boskou. We therefore believed that it would be a better use of judicial resources, to wait for Defendant Boskou to default as well, as we expected he would, and then bring a motion for default as against all Defendants at the same time.

Third, we filed a request for the Clerk's Certificate of Default as against Defendant Boskou on Monday, January 26, 2015 (Dkt # 31.) We expect that Certificate to be forthcoming and we can then proceed with a single motion for Default against all Defendants.

Last, for the forgoing reasons, we hope that we have demonstrated that we have timely served Defendant Boskou, given him ample time to find an attorney, interpose and answer, or at least call our office to ask for more time. Also, that the delay in filing a Default Motion against Portmarnock Restaurant Corp and Hurley was not a failure to prosecute, but rather an intended move because of the newly located Boskou and the goal to streamline motion practice. Therefore we respectfully request that the February 13, 2015, Show Cause Hearing be cancelled so that Plaintiff can proceed with her Default Motion(s) against all of the Defendants.

Nevertheless, should Your Honor decide that such a hearing is still necessary, we respectfully request that it be adjourned to sometime in the last week of February or early March. I will be out of the country on February 13, 2015, and not available to appear until a date after February 18, 2015.

As a final note, we have served a copy of Your January 23, 2015 Order, as well as a copy of this letter, on all Defendants. (Please see attached affidavit of service.) Yet based on the Defendants' past conduct, we do not expect any of them to respond to the Order or our letter.

If you have any questions, please feel free to contact our office. Thank you for Your continued attention to this matter.

Respectfully submitted,

Arcé Law Group, PC

/S/

Bryan S. Arce, Esq.

Request to adjourn show cause hearing GRANTED. Plaintiff is directed to submit her motion for default judgment no later than February 13, 2015.

SO ORDERED.



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

January 29, 2015